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HL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/913,976

12/22/97

HODGKINSON

M

71272

HM22/0831

WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
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CHICAGO IL 60606

EXAMINER

PRYOR, A

ART UNIT

PAPER NUMBER

1616

9

DATE MAILED:

08/31/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/913,976

Applicant(s)

Hodgkinson

Examiner

Alton Pryor

Group Art Unit

1616



☒ Responsive to communication(s) filed on Aug 9, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 22-37 is/are pending in the application.

Of the above, claim(s) 28-30 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-27, 31, and 33-37 is/are rejected.

☒ Claim(s) 32 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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First Action on the Merits

Action Summary

Claims 22-37 are pending. Claims 22-27,31,33-37 are rejected. Claim 32 is objected to.
Claims 28-30 are non-elected.

Election

The election is not allowable, because it is taught by the prior art.

Claim Rejection under 35 U.S.C. 102 (b)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22,33 are rejected under 35 U.S.C. 102(b) as being anticipated by Ratledge (US 3,997,322; 12/14/76). The reference discloses an agricultural spray oil having added thereto a sulphonate and emulsifying surfactant. See abstract, column 2 lines 37-68, column 3.

Claim Rejection under 35 U.S.C. 103(a)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-27, 31, 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paget (US 4,064,261; 12/20/77) and Ratledge (US 3,997,322; 12/14/76). Paget teaches an agricultural spray oil having added thereto a benzoxazole, surface active agent, and petroleum oil. The reference does not teach that the surface active agent is a sulphonate. See column 13 lines 39-59, column 4 lines 31-48, column 24 lines 20-63. Ratledge discloses that sulphonates, including metal (overbased) sulphonates of instant claims, are surface active agents used to enhance the pesticidal activity of agricultural spray oils. An ordinary artisan would have been motivated to make the agricultural oil spray taught by Paget using said sulphonates, because they are species in the surface active agent genus expected to enhance the overall pesticidal activity of the oil. The references do not disclose the instant % range for the emulsifier. However, one having ordinary skill would be motivated to determine the optimum % range of said ingredient, because an ordinary artisan would be expected to make the most effective oil.

Claim Objection

Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does treat that the instant agricultural oil spray is clay or hydrotreated.

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Telephonic Inquiries

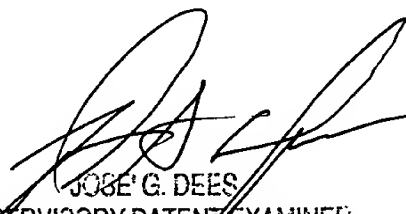
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

ANP

8/25/99


JOSE G. DEES
SUPERVISORY PATENT EXAMINER
1616